

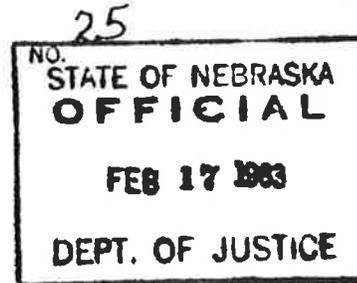
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

February 16, 1983

PAUL L. DOUGLAS
Attorney General
GERALD S. VITAMVAS
Deputy Attorney General
JOHN R. THOMPSON
Deputy Attorney General



Senator Dave Newell
Member of the Legislature
State Capitol Building
Lincoln, Nebraska 68509

Dear Senator Newell:

In your letter of February 3, 1983, you ask whether Neb.Rev.Stat. §23-151 (1982 Supp.) mandates, in counties having a population in excess of 300,000 inhabitants, the nomination of county commissioners by district and their election at large or whether it mandates both their nomination and election at large.

We understand the purpose of your making this inquiry is that you have introduced Legislative Bill 493 which would require the nomination of such commissioners by district and their election at large and the basis of your question is whether or not such legislation is needed or whether that currently is the state of the law as set forth in Neb.Rev.Stat. §23-151 (1982 Supp.).

There are three references to this situation within this overall section, two of which would appear to clearly require nomination by district and election at large and a third which is somewhat ambiguous.

The ambiguous language is as follows: "In counties having more than 300,000 inhabitants, and in counties where a majority have voted for five commissioners, (1) counties which elect members of the board on an at large basis shall continue to appoint and elect additional members at large, . . ."

Assistants

Bernard L. Packett
Mel Kammerrohr
Harold I. Mosher
Ralph H. Gillan
Terry R. Schaaf

Marilyn E. Hutchinson
Patrick T. O'Brien
J. Kirk Brown
Royce N. Harper
Sharon M. Lindgren

Ruth Anne E. Galter
G. Roderic Anderson
Dale A. Comer
Shanier D. Cronk
Martel J. Bundy

Mark D. Starr
Dale D. Brodkey
Frank J. Hutfless
Linda L. Willard
Robert M. Soshnik

Senator Dave Newell
February 16, 1983
Page -2-

If the word "appoint" is synonymous with the word "nominate" then this exception, which would apply as we understand it to Douglas County, would require the nomination and appointment of such commissioners at large which would be inconsistent with the remainder of the statutory language contained in this section.

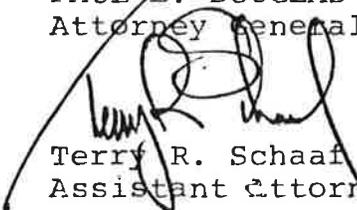
To summarize if the word "appoint" as set forth above is construed to mean "nominate" then this sentence is inconsistent with the remainder of the body of Neb.Rev.Stat. §23-151 (1982 Supp.). On the other hand if the word "appoint" is construed to mean to fill a vacancy, then these sections would be consistent.

The word "appoint" as defined by Black's Law Dictionary is to "designate, ordain, prescribe, nominate". Additionally from Volume 6 of Corpus Juris Secundum, the word "appoint" is defined as meaning "allot, set apart, or designate; to choose or select; to nominate or authoritatively assign."

It would therefore appear to us that at best, the language of this section is ambiguous and at worst, inconsistent. We would be therefore of the opinion that if it is your desire to clarify the legislative direction to counties having in excess of 300,000 in population as to how their county commissioners are to be nominated and elected, it would be helpful to enact clarifying legislation at this time.

Sincerely,

PAUL L. DOUGLAS
Attorney General



Terry R. Schaaf
Assistant Attorney General

TRS:pjs
cc: Patrick O'Donnell
Clerk of the Legislature